

STATEMENT OF SENATOR STROM THURMOND (D-SC) ON SENATE FLOOR OPPOSING
CONFIRMATION OF POTTER STEWART TO BE AN ASSOCIATE JUSTICE OF THE
UNITED STATES SUPREME COURT, MAY 5, 1959.

MR. PRESIDENT:

I rise in opposition to the confirmation of the nomination of
Potter Stewart to be an Associate Justice of the United States Supreme
Court.

The greatest enemy of the United States and of the free world
today is Communism. Communism is a satanic, brutal, wicked enemy.
We must keep this country prepared and be ready to combat any aggression
which might be attempted by the Communists.

Even a greater danger than the Communists, I believe, Mr. President,
from an outward standpoint, are two things which are taking place in this
country today. The first is the big spending by the Congress, and the
second is the decisions of the United States Supreme Court which encourage
Communists and subversion.

Last week I sent out in a weekly newsletter ~~along-this-line~~ a few
words along this line, which are as follows:

Today Communists in the United States are enjoying a field day.

I do not know of any group, including the Communists themselves, which could have written a platform that would better suit the Communists than the ~~numerous pro-Communist~~ decisions which have recently been handed down by the Supreme Court of the United States. In my opinion, the Supreme Court of the United States is a menace to the people of this country. When I say that, I have a high regard for the Court as an institution, but I am speaking of the nine temporary occupants of seats in that Court. When they hand down decisions such as those to which I have just referred, which encourage and foster Communism, and apparently do everything in their power, in their decisions, to promote Communism, they are indeed a dangerous menace to our country.

It is my opinion that internal subversion in this country is even more dangerous than the threat of an attack from outside.

I am cognizant of the situation in which we find ourselves in Berlin, Korea, and in various other places throughout the world. We must remain strong--the strongest nation on the face of the earth--to combat Communism.

We know that Lenin said in 1917, that the aim of the Communists is to be the gravediggers, the heirs, and successors to the governments of the world. We know that the aim of Communism is to take over the United States and the free world. We know that it is a great danger. But it is my opinion that the decisions of the United States Supreme Court which have been handed down in recent years constitute a much greater danger than the threat of Communism from without.

I do not expect to support this nomination. I understand that Mr. Stewart ¹⁰ has asked whether or not he approved of the decision in the Brown versus Board of Education. He stated that he did. If Mr. Stewart believes in that decision, then he believes that the Constitution of the United States can be amended by the Court. If he believes in that decision, he does not believe in the division of power^s which is clearly set out in the Constitution.

The Tenth Amendment to the Constitution of the United States provides that all powers not delegated to the Federal Government are reserved to the States. There were States before there was a Federal Government. The States formed the Federal Government. The Federal Government did not give the States their powers. The States gave the Federal Government its powers. The States gave the Federal Government its power when they adopted the Constitution drafted in Philadelphia in 1787. In examining the powers which were delegated to the Federal Government we see that the field of education was not covered. It has not been covered by an amendment since then. The word "education" is not even to be found in the Constitution of the United States. Therefore, the field of education is reserved to the States under the Constitution.

I do not feel that I can permit myself to vote to seat as an Associate Justice of the United States Supreme Court a man who did construe the Constitution in such a way.

In my opinion, such a decision is erroneous. In my opinion, affirming such a decision is erroneous; and if that is his judgment in that sort of case, I am sure it will be equally bad in some other respects.

On behalf of Mr. Stewart I will say that I understand he is an

honorable man and a capable man. From all I have heard about him, he would be an improvement over the other occupants of seats on the Supreme bench; but when I make that statement, I must add that, in my opinion, he would not have to be too good a lawyer to be an improvement.

In my opinion, the members of the Supreme Court of the United States today are very mediocre lawyers. I believe that in most cases they were placed on that Court for political purposes--either to pay political debts, to swing blocs of votes, or to get votes in the future.

I do not believe that the members of the Supreme Court of the United States today are unbiased judges who can justly pass on the lives and rights of the people of the country, and on questions dealing with the prosperity of the people.

Mr. President, I could^{talk}/at much greater length on this subject. I wish to be on record as opposing confirmation of the nomination of Mr. Stewart, for the reasons I have cited.